

**Statement of Substance of Interview  
under 37 C.F.R § 1.133**

Applicant submits this Statement of Substance of Interview in accordance with 37 C.F.R § 1.133 to be made of record for the application for patent identified herewith and respectfully requests entry of the statement as set forth herein.

Applicant wishes to thank the Examiner for participating in a telephone interview on July 18, 2007, held between the Examiner and Applicant's representative. The Examiner was most courteous and agreeable. In the interview, the substance of an Office Action mailed on March 20, 2007, as well as rejections therein were discussed. Applicant's representative and the Examiner also discussed potential subject matter for consideration after the final rejection in view of recommendations put forth by the Examiner in the same Office Action. The Examiner submitted that the potential subject matter would have to be considered further.

In a phone call delivered by the Examiner on July 19, 2007, Applicants' representative was informed of a potential new reference that could read on the pending claims. The new reference was identified as U.S. Patent No. 5,632,326. The Examiner also indicated that, in view of the reference, a request for continued examination would have to be filed to continue prosecution.

This is intended to be a written statement as to the substance of a telephone interview held on July 18, 2007, and to a voicemail message left by the Examiner with Applicants' representatives on July 19, 2007, to be made of record in the application for patent.

The amendments submitted herewith are responsive to one or more items identified during the interview held July 18, 2007, and to a voicemail message left by the Examiner with Applicants' representatives on July 19, 2007.

**Remarks**

Claims 1-6, 8, 10-13, 19-24, and 27-33 are pending with this Application. Claims 7, 9, 14-18 and 25-26 were previously cancelled without prejudice. Claims 34-43 are cancelled herewith without prejudice. In the Office made final and mailed March 20, 2007, the Examiner rejected Claims 1-6, 8, 10-13 and 19-23 under 35 U.S.C. 112, first paragraph, for encompassing solid and porous microspheres. The Examiner, in paragraph 3, states that hollow microspheres are exemplified in Example 8 and that the specification is enabling for hollow microspheres. Applicants have amended the claims, particularly independent Claim 1, 24 and 28 to include additional features including greater than 4 wt.% to less than about 10 wt.% sodium oxide and having a void volume of between about 30% and 95% based on the total volume of the microsphere. The additional features make clear that there is a void volume in the microspheres. Applicants further point out that Applicants' claimed invention are not only hollow, as suggested by the Examiner. In fact, Applicants point out that microspheres identified in the as-filed specification may have more than one void (see, e.g., originally filed Claims 2, 4, and para. [0021], [0080]). Morevoer, examples provided throughout the specification specifically described the formed microspheres as foamed microspheres, which includes microspheres having more than one void (see, e.g., Examples 1-7). Accordingly, Applicants submit that the claims comply with the written description requirement and scope of enablement under 35 U.S.C. 112, first paragraph. Applicants further submit that the claimed range of aluminum oxide as provided in the claims and as represented in Example 8—a representative example of synthetic microspheres formed by the claimed invention—are fully enabled by the specification as filed. U.S. Patent No. 5,632,326 (herein “Gough”) does not anticipate nor is it obvious over the claimed invention because the Gough patent claims very different spheres having a very different composition. For one thing, microspheres of Gough require that sodium plus potassium oxide be very small, from 0.5 wt.% to 4 wt.% which is not equivalent to the claimed invention. The microspheres of Gough, because of their unique and different composition, are also not

obvious over the claimed invention because one would not be guided by Gough to change the composition of microspheres to arrive at Applicants' claimed invention. There is no motivation in the reference itself, nor would there be a reason for one of ordinary skill to alter a composition that is so specifically designed. As such, Applicants submit that the claimed invention is patentably distinct. Applicants also respectfully request the rejection under U.S.C. 112, first paragraph, be removed.

Applicants submit that no new matter has been introduced with this reply and no new issues requiring further consideration and/or search have been introduced with the amended claims set forth herein. Applicants do not suggest that amendments introduced herewith are a result of the rejections described above or those set forth in the Office Action mailed March 20, 2007, or to any other rejection.

### **Conclusion**

In light of the remarks presented with this Amendment, Applicants respectfully submit that the pending claims provided in the Listing of Claims beginning on page 3 of this paper are in condition for allowance. Accordingly, favorable consideration for and allowance of all claims are respectfully requested.

This response is being filed with a Request for Continued Examination and the appropriate fees. No additional fees are believed due with this paper. To the extent that any further fees are required during the pendency of this Application, including petition fees, the Commissioner is hereby authorized to charge payment of any additional fees, including, without limitation, any fees under 37 C.F.R. § 1.16 or 37 C.F.R. § 1.17, to Deposit Account No. 07-0153 of Gardere Wynne Sewell LLP and reference Attorney Docket No. 129843-1099.

In the event that any additional time is needed for this filing, or any additional time in excess of that requested in a petition for an extension of time, please consider this a petition for an extension of time for any needed extension of time pursuant to 37 C.F.R. § 1.136 or any other section or provision of Title 37. Applicants respectfully request that the Commissioner grant any such petition and authorize the Commissioner to charge the Deposit Account referenced above. Please credit any overpayments to this same Deposit Account.

Should the Examiner have questions, comments, or suggestions in furtherance of the prosecution of this Application, please contact Applicants' representative at 214-999-4330. Applicants, through their representative, stand ready to conduct a telephone interview with the Examiner to review this Application if the Examiner believes that such an interview would assist in the advancement of this Application and/or place the application in condition for allowance.

This is intended to be a complete response to the Office Action mailed March 20, 2007.

Attorney No. 129843-1099 (HARD1.090A1)  
Customer No. 60148

AMENDMENT AND RCE  
Application No. 10/648,184

11

**Please direct all correspondence to the practitioner listed below at Customer No.  
60148.**

Respectfully submitted,

*Monique A. Vander Molen*

---

Monique A. Vander Molen  
Registration No. 53,716  
Gardere Wynne Sewell LLP  
1601 Elm Street, Suite 3000  
Dallas, Texas 75201-4761  
(214) 999- 4330 – Telephone  
(214) 999- 3623 – Facsimile

Dated: September 20, 2007